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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Charles E. Watts,

No.

Plaintiff,

COMPLAINT

v.

Faslo Solutions, LLC;
Weinstein & Riley, P.S.;
and
Richard S. Ralston;

(Jury Trial Demanded)

Defendants.

Plaintiff alleges as follows:

I. Preliminary Statement

1. Plaintiff brings this action for damages based upon Defendants' violations of the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 et seq. (hereinafter "FDCPA"). In the course of attempting

1 to collect a debt allegedly owed by Plaintiff,
2 Defendants engaged in deceptive, unfair and abusive
3 debt collection practices in violation of the FDCPA.
4 Plaintiff seeks to recover actual damages, and
5 statutory damages, as well as reasonable attorney's
6 fees and costs.

7 **II. Statutory Structure of FDCPA**

8 2. Congress passed the FDCPA to eliminate abusive debt
9 collection practices by debt collectors, to insure
10 that those debt collectors who refrain from using
11 abusive debt collection practices are not
12 competitively disadvantaged, and to promote
13 consistent state action to protect consumers against
14 debt collection abuses. FDCPA § 1692.

15 3. The FDCPA is designed to protect consumers who have
16 been victimized by unscrupulous debt collectors
17 regardless of whether a valid debt exists. Baker v.
18 G.C. Services Corp., 677 F.2d 775, 777 (9th Cir.
19 1982).

20 4. The FDCPA defines a "consumer" as any natural person
21 obligated or allegedly obligated to pay any debt.
22 FDCPA § 1692a(3).

23 5. The FDCPA defines "debt" as any obligation or
24 alleged obligation of a consumer to pay money
25 arising out of a transaction in which the money,

1 property, insurance, or services which are the
2 subject or the transaction are primarily for
3 personal, family, or household purposes. FDCPA §
4 1692a(5).

5 6. The FDCPA defines "debt collector" as any person
6 who uses any instrumentality of interstate commerce
7 or the mails in any business the principal purpose
8 of which is the collection of any debts, or who
9 regularly collects or attempts to collect, directly
10 or indirectly, debts owed or due or asserted to be
11 owed or due to another. FDCPA § 1692a(6).

12 7. Any debt collector who fails to comply with the
13 provisions of the FDCPA is liable for any actual
14 damage sustained; statutory damages up to \$1,000;
15 attorney's fees as determined by the Court and costs
16 of the action. FDCPA § 1692k.

17 **III. Jurisdiction**

18 8. Jurisdiction of the Court over this action and the
19 parties herein, arises under 15 U.S.C. § 1692k(d)
20 (FDCPA), and 28 U.S.C. §1337. Venue lies in the
21 Phoenix Division of the District of Arizona as
22 Plaintiff's claims arose from acts of the Defendants
23 perpetrated therein.

24 **IV. Parties**

25 9. Plaintiff is an individual residing in Maricopa

1 County, Arizona.

2 10. Plaintiff is allegedly obligated to pay a consumer
3 debt.

4 11. Plaintiff is a "consumer" as that term is defined by
5 FDCPA § 1692a(3).

6 12. Defendant Weinstein & Riley, P.S. (hereinafter
7 "W&R") is a Washington corporation, and a law firm
8 with its primary offices located at 2001 Western
9 Avenue, Suite 400, Seattle, Washington.

10 13. W&R employs one or more attorney's licensed to
11 practice law in the state of Arizona and in the
12 Arizona courts.

13 14. W&R is engaged in the business of collecting debts
14 alleged to be due another.

15 15. W&R is a "debt collector" as defined by FDCPA §
16 1692a(6).

17 16. Defendant Richard S. Ralston is an Arizona licensed
18 attorney employed by W&R.

19 17. Ralston also holds the position of an officer
20 (Treasurer) of W&R.

21 18. Ralston engages in the business of collecting debts
22 alleged to be due another.

23 19. Ralston is a "debt collector" as defined by FDCPA §
24 1692a(6).

25 20. W&R also employs non-attorneys to assist the firm in

- 1 the collection of debts alleged to be due another.
- 2 21. W&R is liable for the acts of it's employees and
- 3 agents within the scope of their authority under the
- 4 doctrine of respondent superior.
- 5 22. Defendant Faslo Solutions, LLC is a Delaware limited
- 6 liability company authorized to conduct business in
- 7 Arizona.
- 8 23. Faslo is engaged in the business of collecting debts
- 9 alleged to be due another.
- 10 24. Faslo is licensed by the Arizona Department of
- 11 Financial Institutions as a collection agency, with
- 12 license number 0910492.
- 13 25. Faslo is a "debt collector" as defined by FDCPA §
- 14 1692a(6).
- 15 26. At all times relevant herein, W&R and Ralston acted
- 16 as agents of Faslo Solutions, LLC in the collection
- 17 or attempted collection of an alleged debt from
- 18 Plaintiff.

19 **V. Factual Allegations**

- 20 27. In February 2006, Plaintiff financed the purchase of
- 21 a single family home in Goodyear, Arizona using two
- 22 loans secured by deeds of trust in what is commonly
- 23 known as a 80/20 loan, the first loan being 80% of
- 24 the home's value, and the second 20%.
- 25 28. Both mortgages are purchase money loans subject to

1 A.R.S. §§ 33-729 and 33-814, the Arizona anti-
2 deficiency statutes.

3 29. The Second Mortgage (hereinafter "Mortgage") was
4 assigned or transferred to Faslo for serving in or
5 about February 2008.

6 30. At the time the Mortgage was assigned to Faslo,
7 Plaintiff was in default on his payments.

8 31. Sometime thereafter, Faslo assigned the Mortgage to
9 W&R and Ralston for collection purposes.

10 32. Defendants prepared a complaint which was signed by
11 Ralston on November 7, 2008.

12 33. On or about January 15, 2009, Defendants Ralston and
13 his firm W&R filed or caused to be filed the
14 Complaint on behalf of Faslo in Maricopa County
15 Superior Court against Plaintiff claiming a
16 deficiency balance of \$44,708.63.

17 34. In their Superior Court complaint, Defendants allege
18 that Plaintiff is indebted to Faslo in the amount of
19 \$44,708.63, together with interest accrued,
20 attorney's fees and court costs.

21 35. Defendants served or caused Plaintiff to be served
22 with the Summons and Complaint on or about March 11,
23 2009.

24 36. At the time Defendants prepared the lawsuit in
25 November 2008, they knew or should have known that

1 any alleged deficiency on the Mortgage was subject
2 to the anti-deficiency laws of the state of Arizona.

3 37. At the time Defendants filed the lawsuit in January
4 2009, they knew or should have known that any
5 alleged deficiency on the Mortgage was subject to
6 the anti-deficiency laws of the state of Arizona.

7 38. Upon information and belief, Defendants have filed
8 dozens of similar lawsuits against Arizona consumers
9 on defaulted purchase money home loans, and that it
10 is a regular practice of Defendants to do so.

11 39. The actions taken by Defendants as set forth above
12 were illegal, and made with intent to harass,
13 embarrass and humiliate Plaintiff and to illegally
14 coerce payment out of him.

15 40. As a result and proximate cause of Defendants'
16 actions, Plaintiff has suffered actual damages.
17 These damages include, but are not limited to, legal
18 fees, embarrassment, humiliation, and other extreme
19 emotional distress.

20 41. Defendants' actions as outlined above were
21 intentional, willful, and in gross or reckless
22 disregard of Plaintiff's rights and part of its
23 persistent and routine practice of debt collection.

24 42. In the alternative, Defendants' actions were
25 negligent.

VI. Causes of Action

a. Fair Debt Collection Practices Act

43. Plaintiff repeats, realleges, and incorporates by reference the foregoing paragraphs.

44. Defendants' violations of the FDCPA include, but are not necessarily limited to, 15 U.S.C. §§ 1692d, 1692e, 1692e(2)(A), 1692(5), 1692e(8), 1692e(10), 1692f, 1692f(1), and 1692g.

45. As a direct result and proximate cause of Defendants' actions in violation of the FDCPA, Plaintiff has suffered actual damages.

VII. Demand for Jury Trial

Plaintiff hereby demands a jury trial on all issues so triable.

VIII. Prayer for Relief

WHEREFORE, Plaintiff requests that judgment be entered against Defendants and each of them for:

- a) Statutory damages of \$1,000.00 per defendant pursuant to §1692k;
- b) Actual damages in an amount to be determined by trial;
- c) Costs and reasonable attorney's fees pursuant to §1692k; and

1 d) Such other relief as may be just and proper.

2
3 DATED July 15, 2009.

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